

REMARKS

In view of the foregoing amendment and the remarks that follow, the Examiner is respectfully requested to reconsider and withdraw the outstanding objections and rejection.

The present application is a continuation of Application Serial No. 09/029,336, which is the national stage of PCT/SE96/01043, which claims the priority of Swedish Patent Application No. 9502941-9. A certified copy of the Swedish application was filed in the International Phase of the PCT application. Responsive to the request for evidence of filing a certified copy of the foreign priority documents in the parent case, Applicant relies upon M.P.E.P. §§ 201.13(b) and 1828 and maintains that such evidence or further submission of the priority document is not required in the present application.

Responsive to the objection to the Specification due to lack of a statement regarding domestic priority, the same has been inserted by present amendment.

Claims 11, 12, 14-27 and 29-32 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 4,396,631 taken with U.S. Patent No. 5,536,526; U.S. Patent No. 5,531,989; U.S. Patent No. 5,422,346; U.S. Patent No. 4,021,545; U.S. Patent No. 4,806,368. This rejection is respectfully traversed.

Attention is directed to the enclosed Declaration Under 37 C.F.R. §1.132 of Dr. Henning G. Kristensen. Dr. Kristensen notes the invention, as disclosed and claimed, is directed to methods of producing tablets which include live bacteria. The method comprises mixing at least one strain of live bacteria with at least one supporting substance such as fructose oligosaccharide and compressing the mixture to form a tablet having a friability of 0.1-1.0, maintaining at least about 60% viability of the bacteria following the compression. He also outlines why a skilled worker considers the presently-claimed invention novel.

In view of the foregoing amendments and remarks, and particularly in view of the enclosed Declaration, the Examiner is respectfully requested to reconsider and withdraw the outstanding objections and rejection. Further and favorable action in the form of a Notice of Allowance is believed to be next in order, and such action is earnestly solicited. In the event there are any questions concerning this Amendment, or the application in general, the Examiner is respectfully requested to telephone the undersigned so that prosecution of the application may be expedited.

Patent  
Attorney Docket No. 74706

If necessary to effect a timely response, this paper should be considered as a Petition for Extension of Time sufficient to effect a timely response, please charge any fees to Deposit Account No. 501249.

Respectfully Submitted,

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